

(iii) The dressed weight equivalent of the amount by which dead discards exceed the allowance specified at paragraph (c)(1)(i)(C) of this section shall be subtracted from the landings quota in the following fishing year or from the reserve category. NMFS will file with the Office of the Federal Register for publication notification of any adjustment made under this paragraph (c)(3)(iii).

[64 FR 29135, May 28, 1999, as amended at 64 FR 58796, Nov. 1, 1999; 65 FR 42887, July 12, 2000; 65 FR 77526, Dec. 12, 2000; 66 FR 8904, Feb. 5, 2001; 66 FR 42805, Aug. 15, 2001; 66 FR 67121, Dec. 28, 2001; 67 FR 70026, Nov. 20, 2002; 67 FR 77438, Dec. 18, 2002; 68 FR 32417, May 30, 2003]

EFFECTIVE DATE NOTE: At 67 FR 78993, Dec. 27, 2002, in § 635.27 paragraphs (b)(1)(i) and (b)(1)(ii) were suspended, and paragraphs (b)(1)(v) and (b)(1)(vi) were added, effective Dec. 31, 2002, through June 30, 2003. At 68 FR 31983, May 29, 2003, the expiration date was extended from June 30, 2003, to Dec. 29, 2003.

§ 635.28 Closures.

(a) *BFT*. (1) When a BFT quota, other than the Purse Seine category quota specified in § 635.27(a)(4), is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication notification of closure. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notice, fishing for, retaining, possessing, or landing BFT under that quota is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

(2) From August 15 through December 31, the owner or operator of a vessel that has been allocated a portion of the Purse Seine category quota under § 635.27(a)(4) may fish for BFT. Such vessel may be used to fish for yellowfin, bigeye, albacore, or skipjack tuna at any time, however, landings of BFT taken incidental to fisheries targeting other Atlantic tunas or in any fishery in which BFT might be caught will be deducted from the individual vessel's quota for the following BFT fishing season (i.e., August 15 through December 31). Upon reaching its individual vessel allocation of BFT, the vessel may not participate in a directed purse seine fishery for Atlantic

tunas or in any fishery in which BFT might be caught for the remainder of the fishing year.

(3) If NMFS determines that variations in seasonal distribution, abundance, or migration patterns of BFT, or the catch rate in one area, precludes anglers in another area from a reasonable opportunity to harvest a portion of the Angling category quota, NMFS may close all or part of the fishery under that category and may reopen it at a later date if NMFS determines that BFT have migrated into the other area. In determining the need for any such interim closure or area closure, NMFS will consider:

(i) The usefulness of information obtained from catches of a particular geographic area of the fishery for biological sampling and for monitoring the status of the stock;

(ii) The current year catches from the particular geographic area relative to the catches recorded for that area during the preceding 4 years;

(iii) The catches from the particular geographic area to date relative to the entire category and the likelihood of closure of that entire category of the fishery if no interim closure or area closure is effected; and

(iv) The projected ability of the entire category to harvest the remaining amount of BFT before the anticipated end of the fishing season.

(b) *Sharks*. (1) The commercial fishery for large coastal sharks will remain open for fixed semiannual fishing seasons, as specified at § 635.27(b)(1)(i). From the effective date and time of a season closure until additional quota becomes available, the fishery for large coastal sharks is closed, and sharks of that species group may not be retained on board a fishing vessel issued a commercial permit pursuant to § 635.4.

(2) When a semiannual quota for small coastal sharks or pelagic sharks specified in § 635.27(b)(1)(ii) and (b)(1)(iii) is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication a notice of closure at least 14 days before the effective date. From the effective date and time of the closure until additional quota becomes available, the fishery for the appropriate shark species group is closed, and

sharks of that species group may not be retained on board a fishing vessel issued a commercial permit pursuant to § 635.4.

(3) When the fishery for a shark species group is closed, a fishing vessel issued an Atlantic Sharks LAP pursuant to § 635.4 may not possess or sell a shark of that species group, except under the conditions specified in § 635.22 (a) and (c), and a permitted shark dealer may not purchase or receive a shark of that species group from a vessel issued an Atlantic Sharks LAP, except that a permitted shark dealer or processor may possess sharks that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage.

(4) The commercial fishery for large coastal sharks will remain open for fixed semiannual fishing seasons, as specified at § 635.27(b)(1)(v). From the effective date and time of a season closure until additional quota becomes available, the fishery for large coastal sharks is closed, and sharks of that species group may not be retained on board a fishing vessel issued a commercial permit pursuant to § 635.4.

(5) When a semiannual quota for small coastal sharks or pelagic sharks specified in § 635.27(b)(1)(vi) and (b)(1)(iii) is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication a notice of closure at least 14 days before the effective date. From the effective date and time of the closure until additional quota becomes available, the fishery for the appropriate shark species group is closed, and sharks of that species group may not be retained on board a fishing vessel issued a commercial permit pursuant to § 635.4.

(c) *Swordfish*—(1) *Directed fishery closure*. When the annual or semiannual directed fishery quota specified in § 635.27(c)(1)(i) or (ii) is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication notification of closure at least 14 days before the effective date. From the effective date and time of the closure until additional directed fishery quota becomes available, the directed fishery for the appropriate

stock is closed and the following catch limits apply:

(i) When the directed fishery for the North Atlantic swordfish stock is closed,

(A) No more than 15 swordfish per trip may be possessed in or from the Atlantic Ocean north of 5° N. lat. or landed in an Atlantic coastal state on a vessel using or having on board a longline. However, legally taken swordfish from the South Atlantic swordfish stock may be possessed in the Atlantic Ocean north of 5° N. lat. or landed in an Atlantic coastal state on a vessel with a longline provided the harvesting vessel does no fishing on that trip in the Atlantic Ocean north of 5° N. lat. and reports positions with a vessel monitoring system, as specified in § 635.69. NMFS may adjust the incidental catch retention limit by filing with the Office of the Federal Register for publication notification of the change at least 14 days before the effective date. Changes in the incidental catch limits will be based upon the length of the directed fishery closure and the estimated rate of catch by vessels fishing under the incidental catch quota.

(B) No more than 2 swordfish per trip may be possessed in or from the Atlantic Ocean north of 5° N. lat. or landed in an Atlantic coastal state on a vessel that has been issued a handgear permit under § 635.4(f)(1) provided that such swordfish were not taken with a harpoon.

(ii) When the directed fishery for the South Atlantic swordfish stock is closed, swordfish from that stock taken incidental to fishing for other species may not be retained.

(2) *Incidental catch closure*. When the annual incidental catch quota specified in § 635.27(c)(1)(i) is reached, or is projected to be reached, NMFS will file with the Office of the Federal Register for publication notification of closure. From the effective date and time of such notification until an additional incidental catch quota becomes available, no swordfish may be possessed in or from the Atlantic Ocean north of 5° N. lat. or landed in an Atlantic coastal state, and a swordfish in or from the Atlantic Ocean north of 5° N. lat. may not be sold. However, legally taken swordfish from the South Atlantic

swordfish stock may be possessed in the Atlantic Ocean north of 5° N. lat. or landed in an Atlantic coastal state on a vessel with a longline, provided the harvesting vessel does not fish on that trip in the Atlantic Ocean north of 5° N. lat. and reports positions with a vessel monitoring system, as specified in § 635.69.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37705, July 13, 1999; 66 FR 67121, Dec. 28, 2001; 67 FR 77438, Dec. 18, 2002]

EFFECTIVE DATE NOTE: At 67 FR 78993, Dec. 27, 2002, in § 635.28, paragraphs (b)(1) and (b)(2) were suspended and paragraphs (b)(4) and (b)(5) were added, effective Dec. 31, 2002 through June 30, 2003. At 68 FR 31983, May 29, 2003, the expiration date was extended from June 30, 2003, to Dec. 29, 2003.

§ 635.29 Transfer at sea.

(a) Persons may not transfer an Atlantic tuna, blue marlin, white marlin, or swordfish at sea in the Atlantic Ocean, regardless of where the fish was harvested. However, an owner or operator of a vessel for which a Purse Seine category Atlantic Tunas permit has been issued under § 635.4 may transfer large medium and giant BFT at sea from the net of the catching vessel to another vessel for which a Purse Seine category Atlantic Tunas permit has been issued, provided the amount transferred does not cause the receiving vessel to exceed its currently authorized vessel allocation, including incidental catch limits.

(b) Persons may not transfer a shark or a sailfish at sea shoreward of the outer boundary of the EEZ, regardless of where the shark was harvested, and persons may not transfer at sea a shark or a sailfish taken shoreward of the outer boundary of the EEZ, regardless of where the transfer takes place.

§ 635.30 Possession at sea and landing.

(a) *Atlantic tunas.* Persons that own or operate a fishing vessel that possesses an Atlantic tuna in the Atlantic Ocean or that lands an Atlantic tuna in an Atlantic coastal port must maintain such Atlantic tuna through offloading either in round form or eviscerated with the head and fins removed, provided one pectoral fin and the tail remain attached.

(b) *Billfish.* Any person that possesses a blue marlin or a white marlin taken from its management unit or a sailfish taken shoreward of the outer boundary of the EEZ or lands a blue marlin or a white marlin in an Atlantic coastal port must maintain such billfish with its head, fins, and bill intact through offloading. Persons may eviscerate such billfish, but it must otherwise be maintained whole.

(c) *Shark.* (1) Notwithstanding the regulations issued at part 600 (subpart M) of this chapter, no person who owns or operates a vessel issued a Federal Atlantic commercial shark limited access permit shall possess or offload wet shark fins in a quantity that exceeds 5 percent of the dressed weight of the shark carcasses. No person shall possess a shark fin on board a fishing vessel after the vessel's first point of landing. While shark fins are on board and when shark fins are being offloaded, persons issued a Federal Atlantic commercial shark limited access permit are subject to the regulations at part 600, subpart M, of this chapter.

(2) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark limited access permit may not fillet a shark at sea. A person may eviscerate and remove the head and fins, but must retain the fins with the dressed carcasses. While on board and when offloaded, wet shark fins may not exceed 5 percent of the dressed weight of the carcasses, in accordance with the regulations at part 600, subpart M, of this chapter.

(3) A person who owns or operates a vessel that has been issued a Federal Atlantic commercial shark limited access permit and who lands shark in an Atlantic coastal port must have all fins and carcasses weighed and recorded on the weighout slips specified in § 635.5(a)(2) and in accordance with regulations at part 600, subpart M, of this chapter. Persons may not possess a shark fin on board a fishing vessel after the vessel's first point of landing. The wet fins may not exceed 5 percent of the dressed weight of the carcasses.

(4) Persons aboard a vessel that does not have a commercial permit for shark must maintain a shark in or from the EEZ intact through landing—